IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2834 of 2005

Between:

Smt. Lalithamma, W/o. Late Radha Krishna,
R/o. 7-09, Vellur Nacharam Gutta, Vergall Mandal, Medak District.

..... PETITIONER

AND

The Sarpanch, Gram Panchayat, Vellur,
Vergal Mandal, Medak District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction; a) By declaring the action of the respondent in not taking any action and in not demolishing the illegal and unauthorised construction made by the Petitioner's neighbour on the southern side of Petitioner's property bearing No. 7-09, situated at Vellur Nacharam Gutta, Vergal Mandal, Medak District, as illegal and unconstitutional b) To direct the Respondent to forthwith stop and demolish the illegal and unauthorised construct made by the petitioner's neighbour on the southern side of Petitioner's property bearing No. 7-09 alongwith open land, ademasuring around 8 guntas, situated at Vellur Nacharam Gutta, Vergal Mandal, Medak District. C) To pass such other order or orders.

Counsel for the Petitioner : MR. WASIM AHMED KHAN

Counsel for the Respondent: Mrs. Jyothi Eswar

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.2834 OF 2005

ORDER :

The petitioner claims to be the owner and possessor of House bearing No.7-09 together with the open land admeasuring about 8 guntas situated at Vellur, Vergal Mandal, Medak District, having purchased the same under a Registered Sale Deed. It is stated that out of the open land owned by the petitioner, one Surender Reddy, Ex-patwari of the said village has purchased one gunta of the land and started constructions in the said land. However, it is alleged that while the petitioner was unwell and was away at Alwal, the said Surender Reddy, taking advantage of her absence, started illegal and unauthorized constructions on the Southern side of the petitioner's property without leaving any set back. When the petitioner raised objections, the said Surender Reddy threatened her with dire consequences. In the circumstances, the petitioner approached the respondent – Gram Panchayat requesting to stop the illegal and unauthorized constructions by the said Surender Reddy. Since there was no response by the Gram Panchayat, the petitioner got issued a legal notice dated 7-12-2004 to the respondent – Gram Panchayat calling upon to demolish the illegal and unauthorized constructions being made by the said Surender Reddy, but the respondent failed to take any action for removing the said constructions. Hence, this writ petition seeking a declaration that the inaction on the part of the respondent is arbitrary and illegal and for a direction to the respondent to forthwith stop the illegal constructions by the said Surender Reddy and to restrain him from proceeding further with the said constructions.

It is true that the ownership claimed by the petitioner as well as the

correctness of the allegations made by the petitioner that the said Surender Reddy has encroached into her land require to be established in a competent Civil Court after leading the necessary evidence to substantiate the said pleas. However, undoubtedly, the Gram Panchayat is bound to enquire into the allegation that the alleged constructions being made by the said Surender Reddy are unauthorised and if it is found to be true, it is necessary to initiate necessary proceedings in accordance with law.

Accordingly, without expressing any opinion as to the ownership and other rights claimed by the petitioner, the Writ Petition is disposed of with a direction to the Gram Panchayat to enquire into the allegations made by the petitioner in this writ petition and to take the necessary steps in accordance with law after affording due opportunity to the said Surender Reddy to rebut the allegations made by the petitioner.

The Writ Petition is accordingly disposed of. No costs.

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23rd February,2005.

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To

1. The Sarpanch, Gram Panchayat, Vellur,
   Vergal Mandal, Medak District.

2. CD copies